

E-Filed on 9/18/09

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

Rob Charles NV State Bar No. 006593  
Email: rcharles@lrlaw.com  
John Hinderaker AZ State Bar No. 018024  
Email: jhinderaker@lrlaw.com  
Marvin Ruth NV State Bar No. 10979  
Email: mruth@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,<sup>1</sup>

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,<sup>2</sup>

USA SECURITIES, LLC,<sup>3</sup>  
Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR,  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR,  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**NOTICE OF HEARING REGARDING  
THIRTEENTH OMNIBUS OBJECTION  
OF USACM LIQUIDATING TRUST  
TO DOUBLE COUNTED CLAIMS**

Date of Hearing: October 19, 2009

Time of Hearing: 3:00 p.m.

The USACM Liquidating Trust believes that your claim is currently listed  
incorrectly in the Claims Registry. The amount listed is double the amount you included  
in your proof of claim as your actual intended total claim. **THUS, THE USACM**

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 21, 2007.

**EXHIBIT 1**

1 LIQUIDATING TRUST IS PRESENTLY OBJECTING ONLY TO THAT  
2 PORTION OF YOUR CLAIM, AS LISTED IN THE ATTACHED EXHIBIT A,  
3 THAT WAS DOUBLE COUNTED OR THAT OTHERWISE EXCEEDS THE  
4 AMOUNT OF THE CLAIM YOU FILED.

5 PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY  
6 COURT TO DISCUSS THE MERITS OF YOUR CLAIM. QUESTIONS  
7 REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM  
8 SHOULD BE DIRECTED TO BRANT FYLLING OF SIERRA CONSULTING  
9 GROUP, LLC (602) 424-7009) OR THE UNDERSIGNED COUNSEL.

10 NOTICE IS HEREBY GIVEN that the USACM Liquidating Trust has filed its  
11 Thirteenth Omnibus Objection of the USACM Liquidating Trust to Double Counted  
12 Claims (the "Objection"). Your Proof of Claim number and other information regarding  
13 your claim, including the double counted amount that is subject to the objection, is  
14 provided in **Exhibit A**, attached. The USACM Liquidating Trust has requested that this  
15 Court enter an order, pursuant to Bankruptcy Code § 502 and Bankruptcy Rule 3007,  
16 disallowing the portion of your Proof of Claim to the extent it is double counted.

17 NOTICE IS FURTHER GIVEN that the hearing on the Objection will be held  
18 before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley  
19 Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on  
20 October 19, 2009, at the hour of 3:00 p.m.

21 NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON OCTOBER  
22 19, 2009, WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND  
23 SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE  
24 HEARD ON THAT DATE.

25 NOTICE IS FURTHER GIVEN that any response to the Objection must be filed  
26 by October 9, 2009, pursuant to Local Rule 3007(b), which states:

If an objection to a claim is opposed, a written response must be filed and served on the objecting party at least 5 business days before the scheduled hearing. A response is deemed sufficient if it states that written documentation in support of the proof of claim has already been provided to the objecting party and that the documentation will be provided at any evidentiary hearing or trial on the matter.

If you object to the relief requested, you *must* file a **WRITTEN** response to this pleading with the Court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the Court, or if you do not serve your written response on the person who sent you this notice, then:

- The Court may *refuse to allow you to speak* at the scheduled hearing; and
- The Court may *rule against you* and sustain the objection without formally calling the matter at the hearing.

Dated: September 18, 2009.

LEWIS AND ROCA LLP

By  /s/ Marvin Ruth (#10979)

Rob Charles, NV 6593

John C. Hinderaker, AZ 18024 (*pro hac vice*)

Marvin Ruth, NV 10979

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Telephone: (702) 949-8320

Facsimile: (702) 949-8398

E-mail: [mruth@lrlaw.com](mailto:mruth@lrlaw.com)

*Attorneys for the USACM Liquidating Trust*

Copy of the foregoing and pertinent portion of Exhibit A mailed by first class postage prepaid U.S. Mail on September 18, 2009 to:

Parties listed on Exhibit A attached.

LEWIS AND ROCA LLP

  
/s/ Leilani Lista

Leilani Lista

**THIRTEENTH OMNIBUS OBJECTION OF USACM LIQUIDATING TRUST  
TO DOUBLE COUNTED CLAIMS; AND CERTIFICATE OF SERVICE  
Proofs of Claim Asserting Duplicate Amounts**

Name	Address	Claim #	Total Amount of Claim as Listed in Claim Register	Claim Amount Subject To Objection as a Duplicative Amount
KASSU LLC PSP DTD 1/1/05	C/O KATHLEEN A BOYCE TRUSTEE 3270 Piazza Circle RENO, NV 89502	10725-02337	1,398.16	699.08
KERNER REVOCABLE TRUST DTD 3/16/81	MELVIN W KERNER TTEE 15758 SUNSET DR POWAY CA 92064	10725-02288	101,493.04	50,746.52
KIVEN, NORMAN	ANDREW J ABRAMS ESQ SUGAR FRIEDBERG & FELSENTHAL LLP 30 N LASALLE ST, CHICAGO IL 60602	10725-01478	96,496.00	48,248.00
KLAY LIVING TRUST DTD 7/11/90	OTHMAR & CHRISTINE KLAY TTEES 5530 LAUSANNE DR RENO NV 89511	10725-02177	708,473.90	354,236.95
KM FINANCIALS LLC	4847 DAMON CIR SALT LAKE CITY UT 84117-5854	10725-02053	101,767.12	50,883.56
KM GROUP A NEVADA GENERAL PARTNERSHIP	AIME KEARNS 5886 N BONITA VISTA ST LAS VEGAS NV 89149	10725-01999	304,359.34	152,179.67
KM TRUST	C/O AIMEE E KEARNS TRUSTEE 5886 N BONITA VISTA ST LAS VEGAS NV 89149-3911	10725-01997	1,535,080.92	767,540.46
KOERWITZ FAMILY TRUST DTD 5/13/03	KENNETH & JAN CASE KOERWITZ TTEES 44 WINFIELD LN WALNUT CREEK CA 94595	10725-02046	1,528,005.76	764,002.88
L EARLE ROMAK IRA	FIRST SAVINGS BANK CUSTODIAN L EARLE ROMAK IRA PO BOX 6185 INCLINE VILLAGE NV 89450	10725-02326	2,000,000.00	1,000,000.00
LAFAYETTE, JOSEPH B & CATHERINE D	9030 JUNIPERO AVE ATASCADERO CA 93422	10725-02189	410,371.74	205,185.87

## File a Notice:

06-10725-lbr USA COMMERCIAL MORTGAGE COMPANY

Type: bk Chapter: 11 v Office: 2 (Las Vegas)

Assets: y Judge: lbr

Case Flag: EXHS, BAPCPA, LEAD, JNTADMN, APPEAL, Sanctions

### U.S. Bankruptcy Court

#### District of Nevada

#### Notice of Electronic Filing

The following transaction was received from MARVIN C. RUTH entered on 9/18/2009 at 3:41 PM PDT and filed on 9/18/2009

**Case Name:** USA COMMERCIAL MORTGAGE COMPANY

**Case Number:** 06-10725-lbr

**Document Number:** 7520

#### Docket Text:

Notice of Hearing *REGARDING THIRTEENTH OMNIBUS OBJECTION OF USACM LIQUIDATING TRUST TO DOUBLE COUNTED CLAIMS* Hearing Date: 10/19/2009 Hearing Time: 3:00PM with Certificate of Service Filed by MARVIN C. RUTH on behalf of USACM LIQUIDATING TRUST (Related document(s)[7519] Objection filed by Interested Party USACM LIQUIDATING TRUST) (Attachments: # (1) Exhibit A) (RUTH, MARVIN)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**H:\PDF\objections\EXA\_13TH.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=989277954 [Date=9/18/2009] [FileNumber=13613108-0]  
] [03c1a16cc6d5d926d02ab925eddd5d61a33ed226c0e42194f9b36cfc9f8a4b66be8  
038d9891052c0c7c1f23f8fa5bb7081553803f90c2187972be22e0f0dad04]]

**Document description:**Exhibit A

**Original filename:**H:\PDF\objections\EXA\_13TH.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=989277954 [Date=9/18/2009] [FileNumber=13613108-1]  
] [56fe4b132f674485e21db5da3a209f360a278a7b3f175dc6adda926f61821b396e1  
31a7bc7a5f0a5e6570a963c690c35710b4ec12068c71051b0ed4e450fe7a6]]

#### 06-10725-lbr Notice will be electronically mailed to:

MICHELLE L. ABRAMS on behalf of Cross Defendant ROCKLIN/REDDING LLC  
mabrams@abramstanko.com

FRANKLIN C. ADAMS on behalf of Creditor JAMES CORISON  
franklin.adams@bbklaw.com, arthur.johnston@bbklaw.com